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OFFICE OF PETITIONS

In re Application of :  
Robert S. FLESCH et al. :  
Application No. 10/800,397 :  
Filed: March 12, 2004 :  
Attorney Docket No. 34812.3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Final Office action mailed December 03, 2008, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 04, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination, and the \$405 filing fee; (2) the petition fee of \$810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of December 03, 2008 is accepted as having been unintentionally delayed.

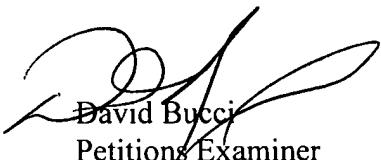
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until

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the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6741 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2457 for appropriate action on the concurrently filed amendment.



David Bucci  
Petitions Examiner  
Office of Petitions